

DOCKETED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION.

FILED

JUL 18 1974

H. STUART CUNNINGHAM
At.....o'clock.....

CLERK

Civil Action
No. 74 C 1030

THE MAGNAVOX COMPANY, a
corporation, and SANDERS
ASSOCIATES, INC., a
corporation,

Plaintiffs,

BALLY MANUFACTURING CORPORATION, a corporation, CHICAGO DYNAMIC INDUSTRIES, INC., a corporation, ATARI, INC., a corporation, ALLIED LEISURE INDUSTRIES, INC., a corporation, EMPIRE DISTRIBUTING, INC., a corporation, and MIDWAY MFG. CO., a corporation,

Defendants.

620 Seybold Building
Miami, Florida,
Friday, June 14, 1974
9:30 a.m. - 10:45 a.m.

DEPOSITION OF DAVID H. BRAUN

Taken before Sylvia Tompkins, Notary Public
State of Florida at Large, pursuant to Notice
Deposition filed in the above cause

JACK W. MALlicoat, INC.
OFFICIAL REPORTER, CIRCUIT COURT
Certified Shorthand Reporters
MIAMI, FLORIDA

1
2 **APPEARANCES**

3 THEODORE W. ANDERSON, ESQ.,
4 of the firm of Newman, Williams,
5 Anderson & Olson, on behalf of
6 the Plaintiffs.

7 THOMAS A. BRIODY, ESQ., on
8 behalf of the Plaintiffs.

9 GEORGE R. RICHARDS, ESQ., of
10 the firm of Myers, Kaplan,
11 Porter, Levinson & Kenin, on
12 behalf of Defendant
13 Allied Leisure Industries.

14 A. SIDNEY KATZ, ESQ., of the
15 firm of Fitch, Even, Tabin
16 & Luedeka, on behalf of
17 Defendants Bally Manufacturing
18 Corp., Empire Distributing, Inc.,
19 and Midway Manufacturing Company.

20 - - - - -

21 **I N D E X**

22 **Witness**

23 **Direct** **Cross** **Red.**

24 David H. Braun (By Mr. Anderson) 3

25 (By Mr. Richards) 67

26 (By Mr. Anderson) 70

1 MR. ANDERSON: Let the record show that
2 this deposition is being taken pursuant to the Federal
3 Rules of Civil Procedure and pursuant to notice under
4 those rules.

5 I will ask the court reporter to mark,
6 as Braun Deposition Exhibit 1, the original Notice of
7 Taking Deposition which scheduled this deposition for
8 today at 9:30 a.m.

9 (The document referred to was
10 thereupon marked "Plaintiffs'
11 Exhibit 1 for Identification,"
12 and is attached hereto.)

13 Thereupon--

14 DAVID H. BRAUN

15 was called as a witness by the Plaintiffs and, having
16 been first duly sworn, was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. ANDERSON:

20 Q. Mr. Braun, would you please state your
21 full name for the record?

22 A. David H. Braun.

23 Q. What is your home address?

24 A. 1600 South Bayshore Lane.

1 Q In what city?

2 A Miami.

3 Q And are you employed?

4 A Yes.

5 Q What is your employment?

6 A I am the chairman of the board, chief
7 officer of Allied Leisure.

8 Q For how long have you held that
9 position?

10 A Since the inception of the company.

11 Q When was that?

12 A Approximately five years ago, four or
13 five years ago.

14 Q And the correct name of the company is
15 Allied Leisure Industries, Inc.; is that correct?

16 A That's right.

17 Q And is that a Florida corporation?

18 A Yes, sir; yes, it is a Florida
19 corporation.

20 Q Was that a continuation of some other
21 business, or was that the inception of a completely
22 new operation?

23 A Well, actually what happened: My son
24 started a business. I retired and it was the

1 D & R Braun Enterprises, or company--either one; and
2 then we took that and made the Allied Leisure, a public
3 company; went public and put all our assets in that
4 company.

5 Q And that conversion occurred four or
6 five years ago?

7 A About four or five years ago.

8 Q That would be in about 1970, then?

9 A I think we went public in '71, didn't we?
10 I think it was '71 that we went public. And this might
11 have been a year before that, we started this company.

12 MR. RICHARDS: It was '69.

13 THE WITNESS: '69.

14 Q (By Mr. Anderson) Did you go public
15 at the time that Allied Leisure was formed, or was it
16 first closely held?

17 A Well, it was a corporation closely held,
18 that is true, until it took us time to go public. It
19 took us almost two years.

20 Q So Allied Leisure was formed in about
21 '69, but was then closely held?

22 A It was closely held until '71, I think
23 it was, when we went public.

24 Q What was the nature of the business of

1 Allied Leisure at the time that it was formed in 1969?

2 A Mainly amusement devices, coin-operated.

3 Q Coin-operated amusement devices?

4 A Yes.

5 Q Approximately what percentage of the
6 company's business was coin-operated amusement devices
7 in 1969?

8 A I would say about 90 percent, 85 to 90
9 percent. I don't recall, you know, the exact numbers.

10 Q Were those amusement devices games?

11 A Games.

12 Q In the nature of pinball games?

13 A Well, we didn't make a pinball game
14 until later on, but what we did was an Unscramble.
15 The first game was called Unscramble; it was a word
16 game, electromechanical.

17 Q Electromechanical?

18 A Yes.

19 Q At that time did you have any product
20 in your line which was a video game?

21 A Oh, no.

22 Q Do you now have a video game in your
23 product line?

24 A Not now.

1 Q You do not have a video game at the
2 present time?

3 A No.

4 Q Have you at any time had a video game
5 in your product line?

6 A Oh, yes.

7 Q When did you last have a video game in
8 your product line?

9 A Well, we had a fire January 31st.

10 Q Fire, January 31st of this year?

11 A Yes. That wiped us out pretty much of
12 everything. And I think we had a few chassis of what-
13 ever it might be, and we made some machines.

14 Q You made some machines since then?

15 A Since January.

16 Q Since January 31, 1974?

17 A I think we phased it out about two
18 months ago--three months ago, two months ago. I'd
19 say sometime in May we phased it out--or June or April.

20 Q Has Allied Leisure phased out all
21 manufacturing operations?

22 A Oh, no; oh, no.

23 Q What is the present manufacturing
24 operation?

1 A Electromechanical machine.

2 Q Is that the same line that you were
3 making in '69 when you were formed?

4 A Similar.

5 Q Approximately how many video games have
6 you put together since January 31, '74?

7 A Not many. I don't know the count, but
8 it's very little, very small.

9 Q Less than ten?

10 A Oh, no. I would say less than 200.

11 Q Less than 200?

12 A Excuse me. May I ask my attorney some-
13 thing?

14 Q Certainly.

15 Who were the other officers of Allied
16 Leisure Industries, Inc.?

17 A My son Robert.

18 Q What is his position?

19 A He is the president.

20 Q And what other officers?

21 A And Ronnie Haliburton.

22 Q What is his position?

23 A He is vice-president and treasurer.

24 Q Any other officers?

1 A Peggy Plant, secretary.

2 Q She is corporate secretary?

3 A Yes.

4 Q Any other officers?

5 A No. Oh, yes: Mort Mendes, executive
6 vice-president.

7 MR. RICHARDS: What about Chuck?

8 THE WITNESS: Yes. Chuck Arnold; he is
9 the vice-president of sales.

10 Q (By Mr. Anderson) And he was what, what
11 is his position?

12 A. Vice-president in charge of sales; I
13 believe that's it.

14 Q Has a management decision been made by
15 Allied Leisure with respect to the continuation or
16 termination of the manufacture of video games?

17 A Well, there's no sale for it so it's
18 not a question of a market. If there was a market
19 we'd make it, but there's no more market. It's played
20 out like yesterday's newspaper.

21 Q Has a decision then been made not to
22 manufacture in the future?

A Right now it has.

Q When was the decision to cease

1 manufacture of video games by Allied made?

2 A I was just about to bring out a point.
3 My attorney said it didn't make any difference, so--
4 we haven't made a game for the United States since
5 before the fire. Anything we did make--the few hundred
6 we did make went to Europe. There is no market here
7 in the United States for it.

8 Q To the best of your recollection, when
9 did you last make a game for the United States market?

10 A I'd say it was prior to January 31st.

11 Q Approximately how long prior?

12 A I wouldn't know.

13 Q Was it a matter of months or maybe a
14 year?

15 A No; it would be months.

16 Q With respect to the less than 200
17 machines made since January 31, '74, to what countries
18 were they shipped?

19 A All over the world, all over, you know.

20 Q Primarily Europe?

21 A Primarily Europe.

22 Q For those sales since January 31, '74,
23 have you used some specific distributor?

24 A Well, we have a national distributor.

1 Q A single national distributor?

2 A Yes.

3 Q Who is that?

4 A Mondial.

5 Q M-o-n-d-i-a-l?

6 A Yes. He only ships to foreign countries.

7 He has an office here in the United States; that is all.

8 Q Do you use Mondial for all Allied
9 Leisure sales or just certain sales?

10 A Just foreign sales.

11 Q For all foreign sales?

12 A Yes.

13 Q Where is Mondial located?

14 A They have one office in New York.

15 Q Do you work with the New York office?

16 A Well, the sales talks to the New York
17 office. I don't have much to do with sales.

18 Q Would that be Mr. Arnold's area of
19 responsibility?

20 A Well, either my son or somebody in the
21 sales.

22 Q Does Mondial have an office in Florida,
23 do you know?

24 A No.

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MIAMI, FLORIDA

1 Q Does Allied Leisure sell these video
2 games that have been sold since January 31, '74, to
3 Mondial, or does Mondial merely act in some sort of
4 an agent or brokerage role?

5 A Mondial?

6 Q You sell to Mondial and invoice Mondial?

7 A Yes.

8 Q Do you ship to Mondial, or do you drop
9 shipment to the ultimate consumer?

10 A Well, as a rule, they containerize most
11 everything, and he gives the shipping instructions.

12 Q Did you say your dealings are with
13 Mondial in New York City primarily?

14 A Yes.

15 Q Do you know if that is true exclusively
16 of Mondial's operation that you deal with? Is that
17 strictly in New York City?

18 A I don't follow the question.

19 Q In other words, does Mondial have any
20 other office anywhere in the country that Allied
21 Leisure works with?

22 A In the United States? Not to my
23 knowledge.

24 Q Do you know the full name of Mondial?

A. No. Mondial International--Mondial
something.

MR. RICHARDS: Is that the spelling:
M-o-n-d-i-a-1?

THE WITNESS: Yes.

Q (By Mr. Anderson) Mondial, -d-i-a-1?

A I think it's International something;

I don't know.

9 Q. Mondial Commercial Corporation; is
10 that correct?

A Yes; it sounds right.

12 Q Did you distribute your international
13 sales through Mondial prior to January of '74, also?

14 A Oh, sure. They have been our distribu-
15 tor since our inception.

16 Q Are they your distributor only
17 internationally or also domestically?

A Just internationally.

19 Q Then, do I understand you do not
20 distribute any products through Mondial for domestic
21 sales in the United States?

A. No.

23 Q How does Allied Leisure distribute its
24 products domestically?

1 A. Through distributors.

2 Q. Approximately how many distributors does
3 Allied use?

4 A. Approximately 50, 40 to 50; I don't
5 know exactly.

6 Q. Are they generally distributed through-
7 out the United States?

8 A. Mostly in every state.

9 Q. Do you have any in Illinois?

10 A. Yes.

11 Q. Will you name the ones that you have in
12 Illinois?

13 A. We have one.

14 Q. What is that?

15 A. Empire.

16 Q. Empire Devices?

17 A. Empire Distributor. They are not our
18 exclusive; they distribute for everybody, you know;
19 they have various lines.

20 Q. For how long has Allied used Empire
21 Distributing for its Illinois distribution?

22 A. I would say back from the beginning of
23 the company.

24 Q. From '69 on?

1 A I would say so.

2 Q In that period has Allied used any
3 other distributor in Illinois?

4 A I don't recall, but I think we did use
5 it in the beginning; we might have used somebody else.

6 Q Does Empire Distributing distribute
7 for Allied in any other states outside of Illinois?

8 A I really don't know his setup. I know
9 that he has a few offices. I think they've got one in
10 Detroit and they handle our product in Detroit. They
11 may not be exclusive with our product in Detroit. We
12 may have another distributor.

13 Q In the notice of deposition we requested
14 that you bring certain documents to this deposition
15 with you relating to your distributor relationship with
16 Empire Distributing Company, Bally Manufacturing
17 Company, or Midway Manufacturing Company.

18 A We don't have any business dealings with
19 Bally.

20 Q Have you ever had any business dealings
21 with Bally?

22 A No.

23 Q None whatsoever?

24 A I mean, they are manufacturers; they

1 manufacture coin-operated amusement devices. Except
2 for knowing them, we don't do much business with them
3 or don't do any, as a matter of fact.

4 Q Have you ever done any business with
5 them?

6 A Not to my knowledge.

7 Q Of any kind?

8 A Not to my knowledge.

9 Q And with respect to Midway Manufacturing
10 Company, have you ever done any business with them?

11 A Same thing. They are our competitor--
12 which was all bought by Bally, including Empire.

13 Q With respect to Empire Distributing,
14 Inc., you do do business with them?

15 A Yes, we do.

16 Q Have you brought any documents with you
17 relating to that relationship?

18 A Yes, I did.

19 Q Will you take them out, please.

20 A (Handing)

21 MR. KATZ: I'd like to request copies
22 of those documents if I might have them.

23 THE WITNESS: Excuse me. Am I going
24 to have to leave these go? These are private business.

1 I don't think this is anybody's business, either his
2 or yours, except he wants to see that we do business.
3 I am willing to show it; I want to cooperate, but I
4 don't believe anybody has a right to these papers.
5 This is our business.

6 MR. KATZ: Granted, but if the documents
7 are marked and become exhibits here, they will be
8 public documents.

9 THE WITNESS: I don't think that is
10 right. I mean, it's confidential business that I have
11 with the distributor.

12 MR. RICHARDS: They are sales orders
13 and invoices, I assume.

14 THE WITNESS: There's also correspondence.
15 I mean, I don't think that is right. I'm not trying
16 to be ornery, but I think the evidence is there that
17 we do business with them; they are our distributors,
18 period. I mean, the volume of business or anything
19 that we do with them has nothing to do with the matter.

20 Q (By Mr. Anderson) Of the collection of
21 documents that you have handed me, Mr. Braun, do any
22 of them relate to video games?

23 A I wouldn't know. I'd have to look and
24 see.

MR. RICHARDS: If you are concerned
about the correspondence--

THE WITNESS: Yes.

MR. RICHARDS: Other than the invoices and the gross amount of the invoices, I think counsel is not interested in the fact of the volume that you do.

Q (By Mr. Anderson) Is Super Shifter a video game?

A. That is a new game.

Q. It is not a video game?

A No. You see, we have a lot of papers gone in our office. Everything burnt up and there was nothing specific.

There, that's a video game; that's video.

MR. KATZ: Perhaps you could have the witness look through the documents and pull out those that pertain to the video games. And then with respect to those, maybe we can enter into a stipulation on the record to maintain those in confidence or something with respect to our client, unless we can all agree that it is not or shouldn't be considered confidential.

Q (By Mr. Anderson) I imagine, as to

1 video games, you are out of that?

2 A If I may, let me give you my reasoning
3 so you will understand. Bally is my competitor;
4 Midway is my competitor. Even though they own this
5 company, this company is run--and I don't know, but
6 they may know the volume they are doing, but I
7 wouldn't want Midway or Bally to know about it, not
8 through me, anyway.

9 Q You may be right, although Bally owns
10 Empire; I am not sure. But I think Mr. Katz' sugges-
11 tion is a valid one. Would you go through the collec-
12 tion of documents and select from the documents only
13 those that relate in any way to video games.

14 A Well, this is where they returned one.

15 Q Mr. Braun, have you sorted out those
16 relating to video games?

17 A Yes.

18 Q I notice the earliest appears to be
19 dated August 16, 1973. Were you able to find any
20 documents relating to a business relationship with
21 Empire Distributing prior to that day?

22 A I could probably bring you a file that
23 big, you know. I mean, if you tell me what you want
24 specifically, I will be happy to give it to you.

1 But we have papers and I just brought a, you know, a
2 handful of them. You know, we have been doing business
3 with the firm for five years. Some burnt up and some
4 didn't, but still in all we surely have more than that.
5 It may not pertain to the TV games, but to show our
6 relationship goes back to '69, '70.

7 Q Has there ever been any written agree-
8 ment of any kind between Empire Distributing and Allied
9 Leisure?

10 A No, no; we don't have any written
11 contracts.

12 Q Empire Distributing acted as your
13 distributor of your product, as I understand it, for
14 the Illinois area, at least, and Detroit?

15 A That's right. I don't know if he still
16 has Detroit as of today, but he did have it.

17 Q Has there ever been any other business
18 relationship between Empire Distributing and Allied
19 Leisure other than that of acting as a distributor of
20 Allied Leisure products?

21 A I don't know what you mean by that.
22 They called us up: "Miami send us"--most of our
23 business is done over the telephone, and they call us:
24 "Send us so many machines," and that is it. We tell

1 them we've got a new one ready; "Send it." Strictly
2 distributor, nothing else. But, I mean if you gentle-
3 men care to, I can give you--you can go back as far as
4 you want.

5 Q With respect to the documents that you
6 handed me all relating to video games and all relating
7 to Empire Distributing, I would like to just mark them
8 as a deposition exhibit collectively. And seeing they
9 are all with Empire Distributing, would you have any
10 objection to my doing this and providing Mr. Katz with
11 copies of them?

12 A Except as I said, it was a confidential
13 matter, and I don't see where it would have anything
14 to do with being brought out in court or anywhere else.

15 What do you think?

16 MR. RICHARDS: I don't think it makes
17 any difference because it's such a relation to such a
18 short period of time. No one can get information as
19 to what your total sales are. It's just a sample of
20 orders from a particular period of time in which you
21 brought down those files. I don't think it makes any
22 difference to Empire, to you or anybody.

23 Q (By Mr. Anderson) If that is acceptable,
24 Mr. Braun, I will ask the reporter to mark Braun

1 Deposition Exhibit 2, a collection of documents that
2 you have handed me; and I will just read what appear
3 to be the order numbers.

4 A Can we just put a number on each one,
5 1 through--1, 2, 3, 4, 5?

6 Q Right.

7 A Exhibit A, or whatever you want to call
8 it?

9 Q Yes; that is what I will do.

10 Your order No. 3608, I will mark as 2-A--
11 and the reporter can mark them later. Your order
12 No. 4827, I will mark as 2-B. Your order No. 4518,
13 I will mark as 2-C. Your order No. 4009, I will mark
14 as 2-D. 4290 is 2-E. 4268 is 2-F. 4005 is 2-G.
15 3692 is 2-H. 3695 is 2-I. 3696 is 2-J. 3803 is 2-K.
16 3694 is 2-L. 493 is 2-M. 5136 is 2-N. 5249 is 2-O.
17 5250 is 2-P. 5251 is 2-Q. 9136 is 2-R. 9162 is 2-S.
18 9235 is 2-T. 9226 is 2-U. 9381 is 2-V. A debit
19 memo dated 1-23-74, and an attached bill of lading,
20 I will mark as 2-W. And we will collectively have
21 them known as Braun Deposition Exhibit 2. And I can
22 provide you with the copies, Mr. Katz, if that is all
23 right.

24 MR. KATZ: Thank you. I would like to

1 have the copies today.

2 Q (By Mr. Anderson) Have you brought with
3 you any other documents in response to our request,
4 Mr. Braun?

5 A You wanted something on the product.

6 Q We specifically asked for product
7 literature on video games. I did that in a letter to
8 Mr. Gerstman.

9 A He gave me that at the last minute.

10 This is the Super Shifter, the new one;
11 this is the Paddle Battle; and this is the Tennis
12 Tourney. Unfortunately, I couldn't give you much more
13 because a lot of it burnt up in the fire.

14 Q Was there other literature beyond the
15 three items that you have handed me, at one time or
16 another?

17 A Oh, yes, yes, yes. We had another
18 video game, but I couldn't find it: Super-Soccer.

19 MR. BRIODY: Super-Soccer, I have one
20 of those.

21 THE WITNESS: Do you have our other
22 games there, as well: The Gun, and things like that?

23 MR. BRIODY: You remember, Mr. Braun,
24 that you sent to Magnavox some months ago a letter

1 with different brochures of your games. That is where
2 I got that Super-Soccer from.

3 MR. ANDERSON: I will have the reporter
4 mark it later to expedite things, as Braun Deposition
5 Exhibit 3, a color brochure entitled Tennis Tourney.

6 THE WITNESS: These I don't care about
7 because we send these out by the thousands, so it
8 doesn't really matter if you want to make an exhibit
9 out of it. The only reason I brought that up was
10 because of a confidential nature.

11 MR. ANDERSON: Sure, I understand.

12 Braun Deposition Exhibit 4, a brochure
13 entitled Paddle Battle. Braun Deposition Exhibit 5,
14 a brochure entitled Allied's Super-Soccer. And Braun
15 Deposition 6 a brochure entitled Super Shifter.

16 Q (By Mr. Anderson) Mr. Braun, you
17 handed those in response to my request for literature
18 about Allied Leisure products. Which of those relate
19 to a video game?

20 A Super-Soccer.

21 Q That is Exhibit 5.

22 A Paddle Battle.

23 Q That is Exhibit 4.

24 A And Tennis Tourney.

1 Q That is Exhibit 3.

2 And Exhibit 6 does not; is that correct?

3 A No, sir.

4 Q Has Allied Leisure at any time had a
5 video game in its product line other than Tennis Tourney,
6 Paddle Battle, and Super-Soccer?

7 A I believe we did.

8 Q And what are the names of the other
9 products?

10 A Well, actually they were the same games,
11 but we gave them different--the same games but we gave
12 them different titles. One was called a Ric-O-Chet
13 and one was called Hesitation.

14 Q Hesitation, I can spell that.

15 Ric-O-Chet: How do you spell Ric-O-Chet, the conven-
16 tional way?

17 A The conventional way.

18 MR. RICHARDS: No.

19 THE WITNESS: R-i-c-O-C-h-e-t.

20 Q (By Mr. Anderson) Did you say that all
21 five of the games were the same?

22 A Oh, no, no. I said that those two: the
23 Ric-O-Chet was the same as Tennis Tourney.

24 Q Ric-O-Chet was the same?

1 A A different cabinet.

2 Q It was the same as Tennis Tourney but
3 in a different cabinet? And Hesitation?

4 A Hesitation was a combination.

5 Q A combination of what?

6 A Of the Paddle Battle--well, actually
7 it was this, with another feature; that is all.

8 Q It was Tennis Tourney with another
9 feature?

10 A Yes.

11 Q What was that feature?

12 A We put the paddle on the top and one
13 on the bottom, instead of on both sides.

14 Q Which of the video games which Allied
15 made was the first that it made?

16 A Paddle Battle.

17 Q When was Paddle Battle first made?

18 A I don't recall.

19 Q Or approximately when?

20 A Last year sometime.

21 Q In 1973 sometime?

22 A Yes.

23 Q Who developed Paddle Battle?

24 A What do you mean by developed? A firm

1 by the name of Universal Research. Well, that is just--

2 Q What portions did Universal Research
3 develop?

4 A The board.

5 Q The electronics?

6 A The electronic board.

7 Q The video display?

8 A The board to make the video display.

9 Q How did it display itself, the tube
10 and associated circuitry?

11 A It was either a TV set or a monitor
12 which we bastardized.

13 Q Which was it, in the first case?

14 A It was a TV set that we converted for
15 a display. You know, we didn't use half the TV set.

16 Q Whose TV set did you use?

17 A I think the first one was Hitachi.

18 Q Did you at some point change?

19 A Yes.

20 Q To what?

21 A Sylvania.

22 Q Did you buy complete TV sets and modify
23 them?

24 A That was the cheapest way to do it.

1 Q At some point you say you also employed
2 monitors?

3 A Yes; we used monitors.

4 Q Did you switch over to monitors or did
5 you run monitors and the TV sets at the same time?

6 A Actually we made the monitor out of a
7 TV set; that is actually what we did. Then we found
8 out probably it would be cheaper to buy the monitor
9 even though it did cost more. So we bought monitors.

10 Q Whose monitor did you buy?

11 A We bought Motorolas and Ball Brothers.

12 Q B-a-l-1?

13 A Yes.

14 Q In addition to the TV set or monitor,
15 plus the circuit boards provided by Universal Research,
16 was there any other electronic portions or circuits
17 required?

18 A I believe so.

19 Q What were they; do you know?

20 A Well, power supplies, things like that,
21 wiring, harnesses.

22 Q Did Universal Research provide you
23 with the specifications for putting their boards
24 together with the other components to make a complete--

1 A They put the components in themselves;
2 they stuffed them in. They were a contract house that
3 stuffed the board and sold it to us.

4 Q Well, did you receive from them just
5 boards or complete games?

6 A Oh, no: boards.

7 Q And Allied Leisure then combined those
8 boards with a TV set or monitor, modified, plus a
9 power supply, and that made up a complete game?

10 A A wooden cabinet, a coin chute.

11 Q Was that done in Hialeah?

12 A That was done in Hialeah; yes, sir.

13 Q And did Universal Research provide you
14 with the specifications by which you were able to put
15 the power supply, the TV monitor, and the boards that
16 they sold you into a finished unit?

17 A Oh, yes. They did the engineering on
18 it.

19 Q And they are located in Arlington
20 Heights, Illinois?

21 A On the outskirts of Chicago.

22 Q Did you personally deal with Universal
23 Research?

24 A Well, I had dealings with them, yes.

1 Q Who did you deal with then?
2 A Bill and Ed Olges.
3 Q How do you spell Olges; do you know?
4 A O-l-g-e-s, I think it is.
5 Q Mr. Briody is showing me, O-l-l-i-g-e-s.
6 A O-l-l-i-g-e-s, William E.
7 Q And Ed.
8 A Ed lives in Barrington, Illinois.
9 Q Ed Olliges, also?
10 A No: Ed. I don't know his last name.
11 Q P-o-l-a-n-e-k, Polanek?
12 A That sounds like it, yes.
13 Q Do you have documents relating to your
14 relationship to Universal?
15 A Yes, I do.
16 Q May I see those?
17 MR. KATZ: Before you turn those
18 documents over, I think we should raise the question
19 now as to whether or not those documents are of a
20 confidential nature, keeping in mind that the documents
21 that are produced as exhibits without any limitation
22 will become public documents and they will be available
23 to anyone.
24 THE WITNESS: You can't show them that.

1 MR. RICHARDS: Why not?

2 THE WITNESS: Because that's part of
3 the lawsuit.

4 MR. RICHARDS: But that is a public
5 document: copyright.

6 THE WITNESS: But we promised that we
7 wouldn't do it.

8 MR. RICHARDS: No.

9 MR. ANDERSON: The copyright is of
10 record in Washington.

11 MR. RICHARDS: You can show the patent,
12 but what we have agreed to do is not to show the
13 settlement agreement. Okay.

14 THE WITNESS: Oh, all right.

15 MR. KATZ: Are these documents being
16 produced pursuant to the request for production of
17 documents, or is this a voluntary informal production?

18 MR. ANDERSON: I think it is immaterial.
19 I would think it's in response to our request, but we
20 wouldn't stand on formality as far as that goes.

21 Q (By Mr. Anderson) Perhaps we can
22 expedite this and short-cut a little bit if I just
23 inquire of you about the general nature of the dispute
24 and settlement that you mentioned earlier that is in

1 some way confidential. Between whom was this dispute?

2 A Midway and ourselves.

3 Q When did it arise, approximately?

4 A Well, this goes way back. We had an
5 item that we felt that--

6 MR. KATZ: I would suggest, if I might,
7 I would at least suggest that perhaps the witness--in
8 order to avoid disclosing any information which is
9 confidential and which Allied Leisure has agreed to
10 maintain confidential in terms of the agreement and
11 settlement of that dispute--that the witness perhaps
12 should restrict his answer only to the specific question
13 that is being asked--

14 MR. ANDERSON: I agree with what you say.

15 MR. KATZ: --rather than giving a
16 narration.

17 MR. ANDERSON: Raise your objection if
18 I raise an improper question.

19 Q (By Mr. Anderson) And my question right
20 now is: When did the dispute arise approximately
21 between Midway and Allied?

22 A About two years ago, maybe three, two
23 or three years.

24 Q Did it relate to video games at that

1 time?

2 A No, sir.

3 Q Approximately when was this dispute
4 resolved by a settlement agreement?

5 A Just recently.

6 Q This year?

7 A Within a month that it was dismissed,
8 wasn't it? April 10th.

9 Q Was there an actual lawsuit between the
10 parties?

11 A I would say so. Well, there was, yes.

12 Q A complaint was filed somewhere?

13 A Yes.

14 Q Do you have a copy of the pleading there?
15 May I see it?

16 MR. RICHARDS: This is a copy of the
17 stipulation of dismissal.

18 MR. ANDERSON: This is a public record,
19 I take it?

20 MR. RICHARDS: Yes.

21 Q (By Mr. Anderson) Did the lawsuit,
22 Allied v. Midway, Civil Action 73-C-2682, involve
23 video games in any way?

24 A Yes.

1 Q In what respect did it involve video
2 games?

3 A We had a copyright on the board.

4 Q Then perhaps I will have the reporter
5 mark, as Braun Deposition Exhibit 7, the stipulated
6 dismissal order, Allied v. Midway 73-C-2682.

7 A Except I want to get these back.

8 Q We'll make copies of everything you have.

9 A I don't know what my girl has. I
10 imagine they are duplicates, but I still would want
11 to make sure.

12 Q And as Braun Deposition 8, a letter
13 dated July 9, 1973, from Mr. Olliges to Mr. Braun;
14 as Braun Deposition Exhibit 9, a letter dated
15 February 19, 1973, from Mr. Olliges to Mr. Braun;
16 as Braun Deposition 10, a copy of a certificate of
17 registration of copyright, IP 11640; as Braun
18 Deposition Exhibit 11, a copy of certificate of
19 registration of copyright, registration No. IP 11627;
20 and as Braun Deposition Exhibit 12, a copy of
21 certificate, copyright registration IP 11626.

22 With respect to the last three,
23 Mr. Braun, Exhibits 10, 11, and 12, are those the
24 copyrights to which you were making reference?

1 A Yes.

2 MR. KATZ: Excuse me, could I have
3 those numbers? 10, 11 and 12?

4 Q (By Mr. Anderson) Do those copyrights
5 relate to printed circuits that were developed by
6 Universal Research Laboratories?

7 A That's correct.

8 Q Was that work done under your sponsor-
9 ship, Allied sponsorship?

A. We paid for it.

11 Q. Allied paid for it?

12 A Yes.

13 Q And owned the copyrights?

14 A Yes, sir.

15 Q Did Universal Research then sell boards
16 incorporating those copyrights to others?

A No. The letter was self-explanatory.

18 MR. RICHARDS: Just answer the question.

19 | THE WITNESS: No.

20 Q (By Mr. Anderson) Did the lawsuit,
21 Allied v. Midway Civil Action 73-C-2682, involve a
22 complaint of one of the parties against the other
23 involving video games?

A You are talking about this Allied

1 v. Miday?

2 Q Yes.

3 A Yes.

4 Q Who was the party complaining with
5 respect to--

6 A I complained that they infringed on my
7 copyright.

8 Q To the best of your knowledge, did
9 Midway have a business relationship of any kind with
10 Universal Research Laboratories?

11 A Did they?

12 Q Yes; at that time.

13 A Not at the time--when we went in with
14 this thing, they were exclusive with us. We paid for
15 the development. We paid for them to manufacture and
16 stuff the boards for us under an exclusive basis.

17 Q And was it Allied's belief--

18 A Whether they did business with Midway
19 or Bally, I don't know. It's none of my business.
20 Prior to this, I don't know.

21 Q Prior to the lawsuit?

22 A No; prior to we contracting with them.
23 After we contracted with them, they worked exclusively
24 for us in this particular field. They have a business

1 in electronics. They are in the electronics business,
2 but for this particular thing it was exclusive for us--
3 coin-operated amusement devices.

4 Q Is it true today that Universal is
5 exclusive with Allied with respect to coin-operated
6 video games?

7 A Not only video, any electronics works.
8 If I want some sophisticated electronics work, they
9 do them for me.

10 Q Is that still true today?

11 A That is true for today.

12 Q On an exclusive basis?

13 A Yes; just on a coin machine. They do
14 work for different companies, but to my knowledge I
15 don't think it's in related fields.

16 Q Do you know if they do business with
17 Midway or Bally or Empire?

18 A They might have a project going; not
19 to my knowledge.

20 Q You have some other documents that you
21 have produced with respect to your relationship with
22 Universal, I believe. Will you state what they are?

23 A Well, here it shows that we paid for
24 development costs. We paid for when they repaired a

1 board out of warranty. These are all warranties that
2 were out of warranties.

3 MR. RICHARDS: Just give them some
4 samples and tell them what they are. You have hundreds
5 of them.

6 THE WITNESS: Those are freight charges,
7 charges on shipments made on our behalf.

8 Q (By Mr. Anderson) I don't think we are
9 interested in these freight charges or the out-of-
10 warranty repair charges. The only one of the documents
11 that you have handed me that I am interested in is the
12 development question. Do you have any further documents
13 between Allied and Universal on development?

14 A I don't have it with me, sir.

15 MR. KATZ: Could you identify that
16 document that you are referring to?

17 MR. ANDERSON: Yes, I will.

18 THE WITNESS: That is all I have right
19 with me.

20 MR. ANDERSON: I will ask the reporter
21 to mark as Braun Deposition Exhibit 13, Universal
22 Research Laboratories, Inc., invoice 21991, dated
23 6-6-74.

24 THE WITNESS: I need the invoice back.

1 And delete the numbers.

2 Q (By Mr. Anderson) You would like the
3 number deleted, and then we may have a copy of it?

4 A That's right.

5 Q All right, I think that is acceptable.
6 I will mark it in pencil, No. 13. There is a yellow
7 copy attached. We only need a copy of the cover, of
8 the original.

9 A I need the original.

10 MR. ANDERSON: It might be well to agree
11 that we will attach copies of all the exhibits to the
12 transcript and return the originals to Mr. Braun and
13 to Mr. Katz.

14 MR. KATZ: I'd like to have the copies
15 today because of the continuing depositions scheduled
16 that we have next week.

17 MR. ANDERSON: We can probably get that
18 done today, I think.

19 MR. RICHARDS: And we will agree to
20 delete the dollar figure on the invoice.

21 MR. ANDERSON: Yes; that is acceptable.

22 Q (By Mr. Anderson) Mr. Braun, I place
23 before you invoice 21991. And in case it relates to
24 game AL-70000-Carry Hockey, is that a game that Allied

1 ever made and sold?

2 A No. This is why: See, like I said,
3 th video game is yesterday's newspaper, and this is a
4 game prepare ahead. And this was their share of the
5 development costs, that they paid half and we paid half.
6 So we paid them the part because we are not going to
7 make it.

8 Q Did you have a contract with Universal?

9 A Yes; you have a copy of it.

10 Q That is the letter of February 19, 1973;
11 is that correct?

12 A That is the contract.

13 Q It says: "This letter will serve to
14 clarify our verbal agreement." That is in Deposition
15 Exhibit 8.

16 A Yes.

17 You asked a question before that I
18 couldn't answer. The answer might be right here.

19 Q You are pointing to Exhibit 9?

20 A You asked me when we started. So it
21 would be somewhere in that area, maybe February or
22 March; I think it was March.

23 Q Do the two letters, Braun Deposition
24 Exhibits 8 and 9, as far as you know represent the

1 complete agreement between Allied and Universal for
2 video games?

3 A Well, it's not only video games. I
4 believe it states there they make anything that--coin-
5 operated games. I mean, I can't take a man and say,
6 "Here, give up your business and just work me." They
7 had their business there.

8 Q But my question is, as far as you know,
9 do Exhibits 8 and 9 set forth the business relationship
10 between Allied and Universal relating to video games?

11 A Right.

12 Q Apparently, prior to February 19, 1973,
13 from the first few sentences of Exhibit 9 there were
14 some contacts and relationships between Allied and
15 Universal?

16 A That is correct.

17 Q When did that relationship first begin,
18 to the best of your knowledge?

19 A Maybe a year or so before that.

20 Q And what was the initial contact?

21 A They sold us a signal generator. They
22 made one for the trade; it was just a product of theirs.

23 Q With respect to video games--

24 A And nothing to do with video games.

1 Q What was the first contact with respect
2 to video games?

3 A I think that was it.

4 Q Now, the letter of February 19th refers
5 to delivery of first prototype units, February 26th or
6 before. It would appear that substantial work had
7 been done then prior to February 19th on prototype
8 units for video tapes?

9 A We move pretty fast.

10 Q Prior to February 19th, had Universal,
11 to the best of your knowledge, done any work on circuit-
12 board design for video games?

13 A I don't recall. It could have been a
14 week or so before that.

15 Q With respect to video games, did Allied
16 initially contact Universal, or vice versa?

17 A I don't know.

18 Q What is your earliest recollection of
19 a contact between Universal and Allied relating to
20 video games?

21 A Somewhere in that time.

22 Q What was the incident that you recall;
23 was it oral, telephone?

24 A Probably.

1 Q Personal visit?

2 A No; probably called him.

3 Q Do you recall whether you called them
4 to see if they could make one, or whether they called
5 you and said that they could make one?

6 A Well, I didn't handle that particular
7 thing, but to the best of my knowledge my engineer
8 knew their qualifications and called them and asked
9 them to make one.

10 Q And who was your engineer?

11 A Haliburton.

12 Q Do you know whether they had had any
13 experience with video games prior to that time--
14 Universal, that is?

15 A No; I don't believe so.

16 Q Did they at Universal design each of
17 your video games?

18 A Yes; they did.

19 Q Did anyone at Allied do any electronic
20 design work on the video games which Allied made?

21 A No. Would you repeat the question?

22 (The pending question was
23 read by the reporter as
24 above recorded.)

1 A Well, as I stated before, it takes more
2 than just the board to make a game; and we might have
3 done some design work on the wiring and amplification,
4 or things like that.

5 Q Or power supply?

6 A Power supply.

7 Q But on the logic--

8 A No; we had nothing to do with the logic.

9 Q To the best of your recollection, on
10 what date did Allied first sell a video game?

11 A I would say it was somewhere around
12 April.

13 Q April of 1973?

14 A March or April.

15 Q Which game was that?

16 A Paddle Battle.

17 Q Approximately on what date was the first
18 video game sold to Empire Distributing?

19 A I wouldn't know that offhand.

20 Q Approximately the same date, would you
21 say?

22 A Well, it would be sometime in April.

23 Q When Allied sells to Empire Distributing's
24 chain office, is the product shipped directly to

1 Empire Distributing or is it drop shipped?

2 A It is shipped to their office.

3 Q To their office in Chicago, on Sangamon
4 Street?

5 A Wherever it is.

6 Q Is that always the case?

7 A No. We may ship into Detroit if he
8 tells us to ship machines into Detroit, the distribu-
9 ting office in Detroit.

10 Q With respect to video games, to the best
11 of your knowledge have you ever shipped in response to
12 an Empire order to Empire's designated customer?

13 A I wouldn't know that.

14 Q Approximately when was Tennis Tourney
15 first sold?

16 A This was around the end of August.

17 Q When was the first Super-Soccer sold?

18 A I know it was after August because that
19 was the third machine. Okay, November, somewhere
20 around there.

21 Q Were the initial sales of these products
22 to Empire Distributing Company?

23 A What do you mean by that?

24 Q Was the initial sale of a Paddle Battle

1 game to Empire or someone else?

2 A Hell no. We shipped out to all our
3 distributors.

4 Q I just wondered, because you were look-
5 ing through the Empire.

6 A To give me an idea--when you were asking
7 about Empire, it gave me an idea about the time, because
8 I didn't remember when we were manufacturing; just
9 refreshing my memory.

10 Q Roughly, what percentage of your video
11 game sales were to Empire Distributing Company, would
12 you say?

13 A I don't know.

14 Q Would it be in the order of 10 percent,
15 do you think?

16 A I don't think so.

17 Q Less or more?

18 A I would say less.

19 Q Has Allied at any time had any business
20 relationship at all with Atari, Incorporated?

21 A No; we had no business relationship.
22 We had a drink together.

23 Q Has Allied ever had any business
24 relationship with Chicago Dynamic Industries?

1 A No; except Chuck came from there.

2 Q That is Chuck Haliburton?

3 A Chuck Arnold. They are also a
4 competitor of ours.

5 Q Has Allied had any business relationship
6 with any other manufacturer of a video game?

7 A No; none whatsoever.

8 Q Has Allied shown its video games at
9 any trade shows or consumer shows?

10 A Not consumer, only trade.

11 Q Only trade shows?

12 A Yes.

13 Q What trade shows?

14 A London, Chicago, Miami; I think they
15 had one in L.A.

16 Q Were these all during 1973?

17 A Well, I mean you asked me did I show
18 any trade shows.

19 Q Video games at trade shows?

20 A Well, the only time that I could have
21 sold that is in 1973.

22 Q Conceivably so.

23 A We didn't have a show this year yet.
24 Well, no, it could have been in '74.

1 Q What London show did you show video
2 games at?

3 A It was this last year. It was a short
4 show. I don't even know if we attended. I don't even
5 know if we were there, because they had a problem with
6 the power shortage. But I have to bring back that
7 question because actually the question you asked--I
8 thought, where would we have shows: It doesn't
9 necessarily mean that the shows were there in '73 in
10 these areas. I mean, I don't want to mislead you.

11 Q Right; and I understand and I appreciate
12 that. I would like to know if you know whether you
13 showed video games at a London show at any time?

14 A I am sure they were shown. But they
15 were not shown--in other words, we didn't do the
16 showing actually. Our distributor in London did it.

17 Q Who is that?

18 A They have a different setup in Europe.
19 Their distributor puts on the shows, maybe in Germany,
20 maybe in France, maybe in England, and the distributor
21 is the one who does it; and Mondial arranges for it.

22 Q What trade was that that had the show
23 in London?

24 A Coin machine.

1 Q Coin machine?

2 A Always coin. I don't know what the
3 title of it is, what organization, but it is a coin
4 machine show.

5 Q In Chicago, at what show, or shows
6 have you shown--

7 A Coin machine show. And the show was
8 11-5-73.

9 Q 11-5-73? This was the MOA?

10 A That was the MOA show at the Conrad
11 Hilton Hotel.

12 MR. KATZ: What was the date?

13 THE WITNESS: 11-5-73--well, the show
14 was after that. That was the time I made the delivery
15 of our parts to the show.

16 Q (By Mr. Anderson) And you are referring
17 to specific documents in that regard?

18 A Yes. In other words, that is when our
19 truck picked up the stuff to deliver it to the show.

20 Q May I see the documents that you are
21 referring to?

22 A (Handing)

23 Q These are mostly duplicates. If it is
24 acceptable, Mr. Braun, I will have the reporter mark,

1 as Braun Deposition Exhibit--

2 A. No; that is an original copy, isn't it?

3 Q. I will just have the top one marked as
4 Braun Deposition Exhibit 14, which is invoice No. 48663;
5 and the top copy of order No. 5166 marked as Braun
6 Deposition Exhibit 15.

7 And I ask you if I am correct, that
8 Exhibits 14 and 15 relate to the shipment of video
9 games to Chicago?

10 A. Not all video, just two. There were
11 two Tennis Tourneys and two Super-Soccers.

12 Q. Those are video games?

13 A. Those are video games.

14 Q. They were in fact delivered to the
15 Conrad Hilton?

16 A. They were delivered to the Conrad Hilton.
17 This is an order for the convention boss there to set
18 them up.

19 Q. Were they then operated at the Conrad
20 Hilton during the MOA show?

21 A. Yes; we have a model display.

22 Q. Did Allied Leisure have personnel there
23 demonstrating at that time?

24 A. Yes.

1 Q Who was at the show in Chicago?

2 A We generally all go.

3 Q So that would be you and your son Bob?

4 A And our sales personnel, Chuck.

5 Q Arnold?

6 A No; he wasn't there yet. It was
7 Jean Lipkin.

8 Q Have you ever had a video game on
9 display in Chicago at any other time other than at
10 the MOA show in November of 1973?

11 A I didn't.

12 Q Allied?

13 A No.

14 Q Has Allied at any time--

15 A I mean, to the best of my knowledge.

16 There would be no reason for us to take a machine and
17 show it, except ship a machine to our distributor and
18 let him show--whatever showing they have.

19 Q Have you at any time shipped a machine--
20 a video game--to Empire Distributing for them to show
21 on your behalf?

22 A They wouldn't be showing on our behalf.

23 Q Or for them to show in order to promote
24 the sales of Allied's--

1 A As a rule, they buy--we send them a
2 sample, and they are given a quantity and see if they
3 take in any money and they will buy more. Now, they
4 may have their own shows in different areas, showing
5 our product to sell it. They may go anywhere, I mean.
6 I don't know just where they go.

7 Q With respect to the video games, did
8 Allied ship a sample--one or more samples to Empire
9 Distributors?

10 A Definitely not only to them, but to
11 every one of our distributors.

12 Q But specifically to Empire Distributing?

13 A We shipped them.

14 Q Is that on a no-cost basis--

15 A Oh, no.

16 Q --that the samples are shipped?

17 A Oh, hell no.

18 Q Are they sold--

19 A They are sold to them.

20 Q --are they sold at a special sample price,
21 for sales purchases?

22 A No. That is the price, whatever the
23 selling price would be.

24 Q I certainly want to minimize the document

1 burden on you. Would you be willing to find for me--
2 unless you have it here--the earliest invoice that you
3 can find for each of the video games that were sold to
4 Empire Distributing?

5 A I don't know; they may be here, but I
6 couldn't verify that, but I'd be very happy to mail you
7 a copy.

8 Q All right. I would like to have--

9 A You want the first?

10 Q The earliest, the first sale to Empire
11 of each of the video games about which you have testified:
12 Super-Soccer, Tennis Tourney, Paddle Battle, and the
13 others that you mentioned if they would be separate.

14 MR. ANDERSON: Mr. Katz, perhaps the
15 best way to do that would be to have them deliver them
16 to the court reporter who could then assign them
17 numbers and include them within this deposition, if
18 that is all right with you, and send you any copies?

19 MR. KATZ: Fine.

20 THE WITNESS: Do I have to put the
21 dollar amount in there?

22 MR. ANDERSON: As far as I'm concerned,
23 you can delete the dollar amount, if that is all right
24 with Mr. Katz.

1 MR. KATZ: Yes.

2 THE WITNESS: I will just delete the
3 dollar amount and photostat the rest.

4 MR. ANDERSON: Right. Just put a little
5 piece of paper over the dollars, or whatever you want
6 to do.

7 Q (By Mr. Anderson) Does Allied have
8 any employee who resides outside of the State of
9 Florida?

10 A No.

11 Q Has Allied at any time since its
12 inception, had an employee who resided outside of the
13 State of Florida?

14 A I don't believe so.

15 Q Does Allied presently--

16 A You mean while they were in my employ?

17 Q While they were in your employ?

18 A To the best of my knowledge, no.

19 Q Does Allied at the present time own any
20 video games which are situated outside of the State of
21 Florida?

22 A We don't own any equipment.

23 Q Has Allied at any time owned any video
24 games that were situated outside of the State of

1 Florida, except at the specific shows that you
2 mentioned?

3 A No. I mean, it's either sold or they
4 are in our plant.

5 Q Has Allied at any time owned any real
6 estate outside of the State of Florida?

7 A Allied does not own real estate.

8 Q Has Allied at any time leased or rented
9 any property, real estate property outside of the State
10 of Florida?

11 A I don't believe so. I'd say, no.

12 Q Does Allied provide service for its
13 video products, its video games?

14 A We guarantee all our products, with
15 certain limitations. In other words, we give them a
16 warranty.

17 Q If there is a defect in the Allied video
18 game, how does Allied honor its warranty?

19 A As a rule we will exchange the board
20 for them.

21 Q Who does the actual on-the-spot exchange
22 of the board within the machine?

23 A Well, what we generally do, we send our
24 distributor a certain amount of boards for him to have

1 an inventory. And then the operators or the people
2 that buy the equipment from him come down to his
3 office and gives him that, takes that board and
4 returns it to us and we repair it, and we have a
5 library of it.

6 Q Does Allied have any field service
7 personnel?

8 A Well, we didn't. We are just inaugura-
9 ting schooling, you know, having somebody go out and
10 teaching--every distributor has their own mechanics,
11 but we send them out to get them familiar with our
12 machine. So we hold a school when we come out with a
13 new machine.

14 Q Do you have one or more employees
15 involved in that program?

16 A We just got a person. Frankly, we
17 weren't doing it before. We just inaugurated that
18 very recently because it was so simple. They'd call
19 us on the phone, they got a problem, send the board
20 back, give them another one; and that was the end of
21 it.

22 Q When did you put on this field service
23 personnel?

24 A Just recently. I think this is the

1 first week that we are going out and teaching them,
2 holding schools.

3 Q Will he teach field servicing of video
4 games?

5 A Well, not really because that is past.
6 No, we don't bother no more with that. They are out
7 of warranty and that is the end of it. They come back,
8 they want a new board and we will sell them a new
9 board or repair their board, whichever the case may be.

10 Q Has Allied had any business relationships
11 with Seeburg Corporation at any time?

12 A No, sir.

13 Q Has Allied Leisure at any time leased
14 any video games to anyone?

15 A Not to my knowledge.

16 Q Has Allied, to the best of your knowl-
17 edge, ever sold any, or delivered any video games on
18 consignment?

19 A No. See, leasing and consigning is not
20 our business.

21 Q Is there now some type of license
22 arrangement between Allied and Midway or one of its
23 related companies?

24 A I don't think it has any bearing on this

1 matter at all.

2 Q Well, I understand that there was a
3 dispute between Midway and Allied relating to video
4 games and an allegation by Allied that Midway copied
5 Allied's video game boards, as set forth in the
6 complaint. And it is my understanding that that
7 dispute was settled?

8 A That's correct.

9 Q And I would ask you--

10 A Amicably.

11 Q Amicably, yes; that is my understanding.

12 Now, my question is: Does that amicable
13 settlement involve a license relationship between Allied
14 and Midway, a licensor-licensee relationship?

15 A I really don't know how to answer that.

16 Q Well, yes or no?

17 A It's a confidential thing, and I don't
18 believe there was a license. I think we settled it
19 and that was the end of it.

20 MR. ANDERSON: Do you want to comment?

21 MR. KATZ: No; I am not going to comment.

22 Q (By Mr. Anderson) Were rights granted
23 to Midway under the settlement by which Midway could
24 make the video games or boards for video games previously

1 made by Allied?

2 A Well, now you are asking me the confi-
3 dential settlement of what happened between Midway and
4 ourselves.

5 MR. RICHARDS: May we go off the record
6 for a minute?

7 MR. ANDERSON: Sure.

8 (Informal discussion off the record.)

9 Q (By Mr. Anderson) The question
10 basically is: Under the settlement, were any rights
11 given to Midway to make the video games or boards for
12 video games previously being made by Allied?

13 A I don't know.

14 Q Have you at any time had any discussions
15 with other video game manufacturers regarding the
16 Magnavox Company or its patent position?

17 A I assume we did, but to no extent.

18 Q With whom have you had such conversa-
19 tions?

20 A Frankly, I believe it was mainly--I
21 spoke to Midway once, once or twice about it, and
22 Gerstman was generally the one who was handling it.
23 I didn't get involved in it except when we had this
24 thing with Midway; then we talked about it.

1 Q And you personally talked with Midway
2 about it?

3 A Yes. I think it's Henry Ross, I believe
4 it is.

5 Q Henry Ross at Midway?

6 A Yes.

7 Q Anyone else at Midway that you discussed
8 that with?

9 A Not to my knowledge, no.

10 Q And on how many occasions did you
11 discuss the Magnavox patent?

12 A Not too many because I still don't
13 understand it.

14 Q What is the earliest conversation that
15 you recall with Henry Ross in this regard with respect
16 to Magnavox and its patent position?

17 A Sometime around December, I would say.

18 Q Where did that conversation take place,
19 here or in Chicago?

20 A Over the telephone.

21 Q Relate the conversation.

22 A Well, we were talking about the
23 Magnavox patent, and nobody seemed to understand where
24 the encroachment or anything was. So I says, well,

1 when we are ready they will let us know. That was it.

2 Q Did you discuss with Mr. Ross--

3 A Neither of us are engineers. So going
4 into the details, we just talked as businessmen.

5 Q Did you discuss at all how you would
6 handle the problem?

7 A No.

8 Q That was the first conversation.

9 And what is the next conversation that you recall?

10 A Well, probably the same, you know.

11 Q What is the most recent conversation
12 that you can recall with anyone at Midway regarding
13 the Magnavox patent position?

14 A I don't think I had--I think all the
15 conversation was between Gerstman and my attorney.

16 Q That is Gerstman?

17 A George Gerstman.

18 Q Have you ever discussed the Magnavox
19 patent position with any other video game company
20 other than Midway?

21 A Not to my knowledge.

22 Q Have you ever discussed with anyone
23 any sort of indemnity or hold-harmless agreement with
24 respect to the Magnavox patent agreement?

1 A. Not to my knowledge.

2 Q. Have you produced any other documents
3 in response to the notice of deposition other than the
4 ones you have showed us?

5 A. There was nothing else you asked for.

6 Q. On how many occasions in the last 20
7 months have you been in Chicago?

8 A. Twenty month?

9 Q. Since January 1st of 1973.

10 A. Oh, I might have been there once or
11 twice.

12 Q. Were you there for the MOA?

13 A. For the MOA.

14 Q. Any other occasions that you remember?

15 A. We might have visited with Hank Ross
16 in reference to our lawsuit; and, of course I went
17 over to see Universal. While I was in Chicago I went
18 over to see Universal.

19 Q. On occasion of your MOA trip?

20 A. I think I went there once after that
21 or once before, either one.

22 Q. Did you go there to Chicago at the time
23 that you were initiating the relationship with Universal?

24 A. No; I don't believe so. No, I wasn't

1 involved in that. You see, they were selling us a
2 product--no.

3 Q Did anyone from Universal come here at
4 the time you were initiating?

5 A I believe so. I think it was Ed and
6 Bill came to Miami. They come here quite often.

7 Q Have you ever discussed with anyone a
8 possible joint defense of the action involving the
9 Magnavox Company?

10 A Not I.

11 Q Anyone in your organization?

12 A Not to my knowledge.

13 Q Have your attorneys; do you know?

14 A That, I don't know.

15 MR. ANDERSON: I think that is just
16 about it. If you will give me about a one-minute
17 break. Let me leave the room and talk to Mr. Briody.

18 MR. RICHARDS: I will have a short
19 cross-examination and I think we will be finished.

20 MR. ANDERSON: Mr. Katz, will you have
21 any cross-examination?

22 MR. KATZ: I don't think I will have
23 any.

24

(Thereupon a short recess was taken, after which the following proceedings were had:)

Q (By Mr. Anderson) I have just a few additional questions, Mr. Braun.

Do you know whether Universal Research Laboratories is now selling video games or boards for video games to anyone other than Allied?

A. Not to my knowledge.

10 Q Have you ever heard of a company known
11 as Control Sales in Des Plaines, Illinois?

A. No.

13 Would you be kind enough--this is the
14 only copy that you have?

15 Q Yes; that is the only copy that we have.

16 A Could I have a copy of that? I am
17 interested in that.

18 Q For convenience, let's mark it as the
19 next deposition exhibit, which is Braun Deposition 16,
20 a document which I have handed to the witness, entitled
21 Video Action.

22 And I ask you, Mr. Braun, whether you
23 have ever heard of a video game called Video Action?

A. Never heard of it.

1 Q On the reverse side of Braun Deposition
2 No. 16, it appears that the document is from a company
3 Control Sales in Des Plaines, Illinois. Have you ever
4 heard of that company?

5 A Never heard of it.

6 Q We found we were just not quite clear
7 on the operation of Mondial. Have they ever sold video
8 games for you domestically within the United States?

9 A No; no, sir.

10 Q When, Mr. Braun, did you first become
11 aware at all of the Magnavox patent position?

12 A I think he spoke to George Gerstman,
13 and George called me.

14 Q Mr. Briody spoke with Mr. Gerstman?

15 A Yes.

16 Q Anything at all before that time?

17 A I don't recall.

18 Q Do you recall receiving a letter from
19 Mr. Briody on or around July of '73?

20 A I don't know whether that was before or
21 after Mr. Gerstman spoke to him.

22 Q But you do recall receiving a letter
23 charging infringement?

24 A I believe I got a letter; I'm not sure.

1 MR. BRIODY: Can I ask a question?

2 MR. ANDERSON: No, not now.

3 Q (By Mr. Anderson) Mr. Braun, approxi-
4 mately how many video games has Allied made and sold?

5 A I don't know.

6 Q Roughly?

7 A I haven't the slightest idea. No sense
8 in giving you a figure; I don't know.

9 Q More than a thousand?

10 A I would say so.

11 Q More than 2,000?

12 A I would say so.

13 Q More than 3,000?

14 A I believe so.

15 Q More than 5,000?

16 A Yes; I would say so, but you asked me
17 the amount and I don't know. You are talking about
18 rounded-out numbers.

19 Q I am just trying to get a rough handle
20 on it. More than 10,000?

21 A I don't know about that.

22 Q Has Allied accrued any reserves for
23 patent indemnification or protection?

24 A I don't believe so.

1 Q Not to the best of your knowledge?

2 A I don't believe so.

3 MR. ANDERSON: No further questions.

4 CROSS EXAMINATION

5 BY MR. RICHARDS:

6 Q Mr. Braun, at any time since the
7 inception of Allied Leisure has Allied Leisure had a
8 telephone listing in the Northern District of Illinois?

9 A No, sir.

10 Q Has Allied leased any spaces in that
11 district?

12 A No, sir.

13 Q Has Allied owned any property in that
14 district?

15 A No, sir.

16 Q Has Allied maintained an office in that
17 district?

18 A No, sir.

19 Q Has Allied had any employees resident
20 of that district?

21 A That worked for us? No.

22 Q Has Allied maintained any bank accounts
23 in that district?

24 A No.

1 Q I am not sure whether I asked the
2 question or not, but has Allied any telephone listing
3 in that district?

4 A No.

5 Q Do any employees of Allied on any
6 regular basis visit--

7 A No predetermined basis; no, sir.

8 Q I believe Mr. Anderson had previously
9 asked you whether they had, in fact--employees of the
10 company had gone to the trade show?

11 A Yes, they have.

12 Q And other than the incidents that you
13 had testified previously as to the trade show--the
14 visit to Universal and the one visit with Mr. Ross--
15 were there any other--

16 A Not to my recollection.

17 Q --other visits by Allied employees?

18 A No.

19 Q Where are Allied's manufacturing
20 facilities located?

21 A In Hialeah.

22 Q Are there any other facilities located
23 in any other jurisdictions?

24 A None of ours.

1 Q Is Empire Distributing the exclusive
2 distributor of Allied in the Northern District of
3 Illinois?

4 A. In the Chicago area, I would say yes.

5 Q Products manufactured by Allied, how
6 are they shipped to Empire?

A Through normal freight lines.

8 Q And how is the freight charged?

9 A. Oh, it's all FOB Miami.

10 Q. Miami?

11 A Yes.

12 Q. Or Hialeah?

13 A Well, Hialeah.

14 Q And Allied manufacturing facilities are

15 located in Miami or Hialeah?

16 A. Hialeah.

17 Q Does Allied solicit any sales directly
18 from others in Chicago for the Northern District of
19 Illinois?

A. Not to my knowledge.

21 MR. RICHARDS: I have no further
22 questions.

1 REDIRECT EXAMINATION

2 BY MR. ANDERSON:

3 Q With respect to the solicitation of sales
4 in the Northern District of Illinois, you said, "Not
5 directly." How does Allied solicit sales in the
6 Northern District of Illinois?

7 A I think the question was--he asked me
8 whether we sold other distributors in Chicago.

9 Q Does Allied solicit any sales from the
10 Northern District of Illinois indirectly?

11 A If we didn't do it directly, we don't
12 do it indirectly.

13 MR. RICHARDS: I was trying to elicit
14 the fact that Empire would be our distributor, and our
15 sales would be made to Empire directly, and sales to
16 others would be made by Empire themselves. That was
17 the question I was trying to elicit.

18 Q (By Mr. Anderson) I think you said
19 Mr. Arnold is vice-president in charge of sales?

20 A Yes.

21 Q Does he have a sales force working for
22 him?

23 A Well, what you call a sales force, the
24 whole thing is three people.

1 Q Including Mr. Arnold, or in addition to
2 Mr. Arnold?

3 A Including.

4 Q Who are the other two?

5 A My son and Jean Lipkin and Chuck Arnold.

6 Q Do they travel in their sales' role?

7 A Occasionally; most of our sales work is
8 done right over the phone. There is no need for us
9 to go out most of the time, except to say hello.

10 Q Since January 1 of '73, how many times
11 would you estimate that Bob Braun has been to Chicago?

12 A With the show. Other than that, there
13 would be no need for him to go.

14 Q With respect to Jean Lipkin?

15 A Same thing.

16 Q The show, and perhaps no other time?

17 A There's really--like I said, most of
18 our business is done on the telephone, and we don't
19 travel very often, except on a goodwill tour or some-
20 thing like that. So they might have made a trip
21 across the country and stopped in Chicago.

22 Q Well, approximately how many goodwill
23 tours a year?

24 A Maybe two or three.

1 Q By whom?

2 A It could be by Jean; it could be by
3 Bobby. Chuck wasn't there. So it was either Jean or
4 Bob. Sometimes we'd send out a technical man to do
5 the same thing.

6 Q How many technical men do you have that
7 perform in this role?

8 A One that is capable of going out; it's
9 only one.

10 Q What is his name? What are their names?

11 A Well, we had--let me rephrase that.

12 Only one goes out. We have had three; we have three
13 people that are capable.

14 Q Who is the one that goes out; what is
15 his name?

16 A I said only one of the three would go
17 out. We have three people that are capable.

18 Q I see.

19 A Any one of the three could go out.

20 Now in the beginning, Troy went out.

21 Q Troy? Is that the first name?

22 A Troy Livingston.

23 Q What is his position with the company?

24 A Right now he's just in production.

1 Q And who are the others?

2 A The others would be Roland--I don't know
3 his last name; he's also the engineer; he's in
4 engineering.

5 Q And the third one?

6 A The third one is Ian something.

7 Q I-a-n?

8 A I-a-n. He's a new employee. This would
9 be after; and he's in engineering.

10 Q Does Allied Leisure Industries, Inc.,
11 have any subsidiaries?

12 A Yes.

13 Q What are the subsidiaries?

14 A Just one that I am familiar with. I
15 think it's Allied International; I'm not sure.

16 Q Where is it located?

17 A Here in Miami.

18 Q In Hialeah, also?

19 A Yes.

20 Q What is the nature of the business of
21 Allied International?

22 A It is a disc corporation.

23 Q I'm sorry, I don't know what that means.

24 D-i-s-c?

1 A Yes. It means for shipments across--
2 out of the United States. It would be handled through
3 them.

4 Q Does it perform any other function?

5 A That's it.

6 Q Is it wholly owned?

7 A Yes.

8 Q Does Allied have any other subsidiaries
9 wholly or partially owned?

10 A No, sir.

11 Q Has Allied at any time indemnified any-
12 one against patent infringement claims?

13 A Not to my knowledge.

14 Q Does Allied International have sales?

15 A That's all they have.

16 Q No manufacturing at all?

17 A No manufacturing.

18 Q Does it purchase all of its goods from
19 Allied Leisure Industries?

20 A That's right.

21 Q Does it sell any product domestically?

22 A No, sir.

23 Q Are there any other companies that are
24 controlled by Allied Leisure Industries or by you

1 personally that are in the video game business in any
2 way?

3 A No, sir.

4 Q Does Allied International have any
5 subsidiaries?

6 A No.

7 MR. ANDERSON: I have no further
8 questions.

9 MR. RICHARDS: I have no further
10 questions.

11 MR. KATZ: I have no questions.

12 MR. ANDERSON: Then you will provide us
13 with this one exhibit: on the earliest sales to
14 Empire? Deliver them to the court reporter, who will
15 make a copy and send us a copy.

16 And normally, it is required that you
17 appear before this notary and sign the transcript of
18 your deposition. I would suggest, that perhaps we
19 could agree that you could sign it before any notary
20 public so you wouldn't have to seek this lady out.

21 Is that acceptable, Mr. Katz?

22 MR. KATZ: Yes.

23 MR. ANDERSON: Mr. Richards?

24 MR. RICHARDS: Yes.

1 MR. ANDERSON: Let's so stipulate.

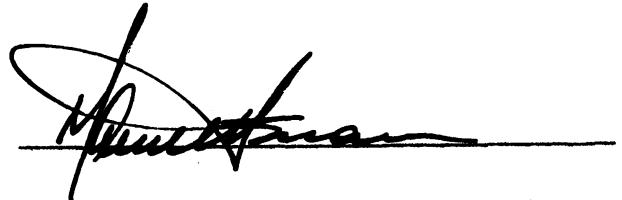
2 THE WITNESS: I won't be back for two
3 or three weeks.

4 MR. ANDERSON: That's all right. We
5 extended our time on this particular problem I think
6 for 30 days, so we've got time.

7 MR. RICHARDS: I would suggest that we
8 attach copies of the exhibits at the end of the
9 deposition and let the reporter file with the court.

10 (The documents as previously
11 indicated by number were
12 marked by the reporter, and
13 are attached hereto.)

14 (Thereupon the taking of the
15 deposition was concluded.)

16
17 
18

19 Sworn to and subscribed before me this 13
20 day of July 1974.

Notary Public, State of Florida at Large
My Commission Expires Feb. 28, 1975

Wanda Martin

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4 **CERTIFICATE OF NOTARY**

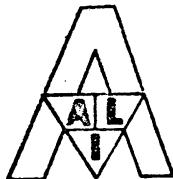
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6 **STATE OF FLORIDA:**
7 : **SS:**
8 **COUNTY OF DADE:**

9
10 I, SYLVIA TOMPKINS, being a Certified
11 Shorthand Reporter and a Notary Public for the State
12 of Florida at Large, do hereby certify that I reported
13 the deposition of David H. Braun, a witness called by
14 the Plaintiffs in the above-styled cause; that the
15 said witness was duly sworn by me; that the witness
16 thereafter read and subscribed said deposition; and
17 that the foregoing pages, numbered from 1 to 76,
18 inclusive, constitute a true and correct transcription
19 of my shorthand report of the deposition by said
20 witness.

21 I further certify that I am not an attorney
22 or counsel of any of the parties, nor a relative or
23 employee of any attorney or counsel connected with
24 the action, nor financially interested in the action.

25 WITNESS my hand and official seal in the
26 City of Miami, County of Dade, State of Florida,
27 this 16th day of July 1974.

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NO 3608

8/16/73

CUSTOMER'S
ORDER NO.

SHIP ASAP

VIA OVER THE ROAD

SALESMAN

CONFIRMATION OF SALE
AND
ACKNOWLEDGEMENT OF ORDER

TO **EMPIRE DISTRIBUTING** Ship To **SAME**
Address **120 S. SANGAMON STREET** Address
City **CHICAGO, ILL. 60607** City
State

Allied Leisure Industries, Inc., ("Seller") does hereby confirm and acknowledge the following described sale and terms and conditions of sale made this date between Seller and Purchaser:

CASH	CHARGE	C.O.D.	PAID OUT	RETURNED MDSE.	RECEIVED ON ACCOUNT
QUANTITY		DESCRIPTION		PRICE	AMOUNT

TENNIS TOURNEY **INVOICE**
40 **# 46296**

8/21 T.T. # 1791 - 1828
1834 - 1836

8/21/73

Truck # T-395
LOCK # 00098 2883
LOCK # 00097 2848
8/21 # 00097 00098

**Pf's Rec'd 2nd Fund
6-14-74 ST**

This is not an invoice, but only confirmation and acknowledgement of Purchaser's order. If incorrect in any respect, please notify Seller immediately in writing stating details in full.

The foregoing sale is subject to the Terms and Conditions of Sale that appear on the reverse side hereof.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ALLIED LEISURE INDUSTRIES, INC.,)

Plaintiff,)

v.)

CIVIL ACTION 73 C 2682

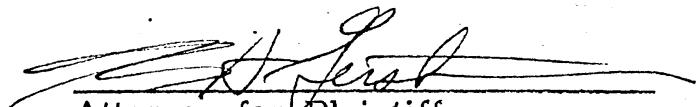
MIDWAY MANUFACTURING CO.,)

Defendant.)

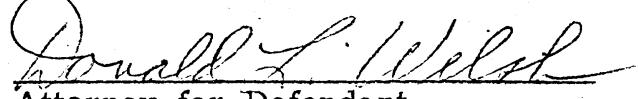
STIPULATED DISMISSAL ORDER

It is hereby stipulated and agreed, by and between counsel for both parties, that the Complaint and all claims of either party in this action shall be dismissed with each party to bear its own costs and attorneys' fees and with prejudice to any action based upon any acts occurring prior to December 26, 1973.

Apr. 10, 1974
Date

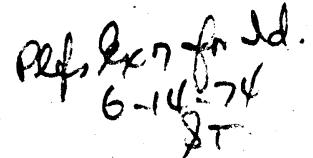

John H. Gerst
Attorney for Plaintiff

Apr. 10, 1974
Date


Donald L. Welsh
Attorney for Defendant

SO ORDERED, this 12th day of April, 1974.

/s/ B.M.D.
United States District Judge


P.L. Ex 7 for Jd.
6-14-74
ST

EASTERN DIVISION

Name of Presiding Judge, Honorable Bernard M. Decker

entered

Cause No. 73 C 2682Date April 12, 1974Title of Cause ALLIED LEISURE INDUSTRIES, INC. vs.
MIDWAY MANUFACTURING CO.Brief Statement of Motion STIPULATED DISMISSAL ORDER

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel

George H. Gerstman, Esq.Lettvin and Gerstman
135 South LaSalle Street, Rm. 808Chicago, Illinois 60603
Counsel for Plaintiff

Representing

Names and Addresses of other counsel entitled to notice and names of parties they represent.

Donald L. Welsh and A. Sidney Katz, Esqs.Fitch, Even, Tabin and Luedeka135 South LaSalle Street, Suite 2157Chicago, Illinois 60603

on Stipulation, complaint and
all claims of either party be dismissed
with costs party to bear own costs
and attorney fees.

Reserve space below for notations by minute clerk

Decker J.

(Adm't)

UNIVERSAL RESEARCH LABORATORIES INCORPORATED

2501 UNITED LANE, ELK GROVE VILLAGE, ILL. 60007 • 312-766-6900

July 9, 1973

Mr. David Braun
ALLIED LEISURE
1780 W. 4th Ave
Hialeah Fla. 33012

Dear Dave:

This letter will serve to clarify our verbal agreement of June 22, 1973, in which we agreed to an exclusive arrangement regarding video type games.

To detail that arrangement:

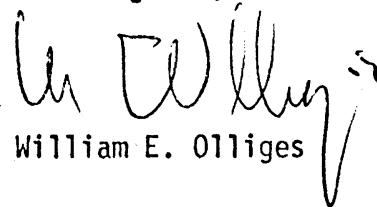
- A. Universal Research will not design or produce Video Logic P.C. Board Assemblies for any other manufacturer (of coin-operated games) while actively engaged in design or production of video type logic assemblies for Allied Leisure.

This covers completely coin-operated T.V. screen displayed games similar to "Paddle Battle", "Four Player", or project "Frontier" pin ball type games.

- B. It does not, however, cover work being done on gambling equipment, using video type displays. Such a product will be covered by a separate agreement.
- C. Allied Leisure will not purchase or develop a similar type of video P.C. assembly from sources other than Universal Research, within the limits of paragraph "A" above.

I trust the forgoing clearly states the intended relationship of our respective companies.

Best regards,


William E. Olliges

WEO:jh
cc: R. Haliburton
E.L. Polanek

Ref Bk 8 for Jd
6-14-74
S.T.

9

UNIVERSAL RESEARCH LABORATORIES INCORPORATED

2501 UNITED LANE, ELK GROVE VILLAGE, ILL. 60007 • 312-766-6900

February 19, 1973

Mr. David Braun
Allied Leisure Industries
1780 W. 4th Ave.
Hialeah, Florida 33012

Dear Dave:

I thought it might be in order to cover our planned production of the 039 Paddle-Battle Video Control Electronics as we now view it.

FIRST DELIVERIES:

Delivery of the first prototype units - February 26th or before, preceded by release of proven master P.C. artwork by February 20th. This will allow a maximum of 3 calendar weeks for U.R.L. to receive finished P.C. boards from your local source, to enable us to deliver 75 units the week of March 15th and 75 units the week of April 7th. It is extremely important that your P.C. board source maintain deliveries consisting of a minimum of 50 boards daily and can be several days ahead of us.

PARTS RESPONSIBILITY:

Universal will supply the complete, tested P.C. board assembly and parts for the A.C. line filters. Allied will furnish the P.C. board with plated - thru holes at no cost to Universal, and will take full responsibility for P.C. board delivery.

Allied will provide the metal chassis, transformer, edge connect and cable assembly per information supplied by U.R.L.

U.R.L. will purchase the slide switch from Allied.

FINANCIAL:

Allied has advanced a total of \$25,000 to be credited over the first 500 units shipped by Universal and has posted a \$50,000 guarantee or irrevocable Letter of Credit to one of Universal's suppliers (Hamilton-Avnet) as a 60-day back-up should Universal not pay invoices.

In addition, a \$50,000 irrevocable Letter of Credit will be issued to Universal effective March 1st to partially guarantee the receivable for a period of 4 months, and only in the event U.R.L.'s invoices are not paid within 60 days.

*Pls. Rg'd
6-14-74
ST*

-2-

Feb. 19, 1973

Last but not least, our bank (American National) requires a letter from Allied stating the \$25,000 advance will not be used to credit current receivables, only the first 500 Video Control Systems shipped on your P.O. #5855.

With luck and early P.C. boards we may ship early.

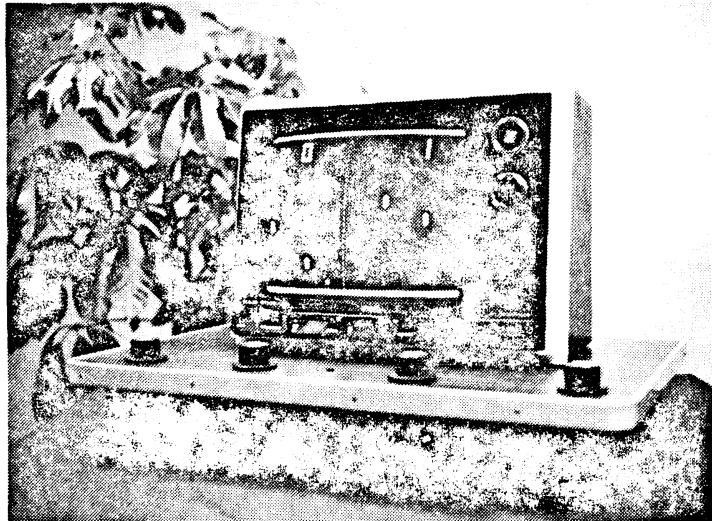
Best regards,



William E. Olliges
President

WE0:jh
cc; R. Haliburton
E. Polanek

16 Video Action....



DESCRIPTION

Video action is a 2 or 4 player paddle game intended for home use. It is the perfect complement to the recreation room and provides a different kind of action along side the pool table or in the home bar.

The system doubles as a conventional 12" black & white T.V. providing added value.

Video action has all solid state T.V. and game electronics. Over 100 D.I.P. I.C.'s are used to generate a game that leaves nothing to the imagination . . . court lines, automatic digital scoring and game start and reset.

Video action is the game of tomorrow for the home of today! The first different product for the home electronic market in many years.

TECHNICAL SPECIFICATIONS — GAME

- 2 or 4 players
- Net and court lines
- Automatic digital scoring
- 5 second delay on start up for ball serve
- Segmented paddle to apply ball English
- Dimensions: 24" wide, 15" deep, 15" high
- 117 volt, 50/60 cycles, 1.2 amps

TECHNICAL SPECIFICATIONS — TELEVISION

- Shorting plug so T.V. may be used as a portable.

Pls Ex 16 for Sd
6-14-74
ST

SPECIFICATIONS

Receiving system	Intercarrier system
Tuning range	VHF 2-13 channel UHF 14-83 channel
Power source	120 volts AC 60 Hz
Audio power output rating	0.5 watts with non-distortion
Antenna input circuit	300 ohms balanced type
Video intermediate frequency	45.75 Mhz
Sound intermediate frequency	41.25 MHz
Loudspeaker	Non-press cone 4" x 2-1/2" P.M. type speaker
Picture tube	12 VAMP 4 110°12" Diagonal picture measurement magnetic deflection, aluminized tube
Dimensions	W - 16-1/2", D - 11-3/8", H - 11-1/2"
Weight	About 18 lbs.

WARRANTY – GAME

Except as hereinafter stated, Video Action Inc. warrants products manufactured by it, to be free from defects in material or workmanship under normal use. Our obligation under this warranty is limited to making good at our factory any parts thereof which shall, within 90 days after delivery of such product be returned to us, and which our examination shall disclose to our satisfaction to have been thus defective will be exchanged or repaired without charge to the owner; however, transportation costs incidental to replacement or exchange of such parts shall be borne by the owner.

This warranty does not extend (1) to any of our products which have been subject to misuse, neglect, accident, incorrect wiring not our own, improper installation, or to use in violation of instructions furnished by us; (2) to units which have been repaired or altered by anyone other than us; (3) to cases where the manufacturers date code or the serial number of the product has been removed, defaced or changed.

This warranty is in lieu of all warranties expressed or implied, and no representative or person is authorized to assume for us any other liability in connection with the sales of our products.

WARRANTY – TELEVISION

The portable television used in the video action game is covered by a separate warranty issued by the manufacturer. Please see the warranty card that is shipped with the set of details.

JACK W. MALLICOAT

OFFICIAL REPORTER, CIRCUIT COURT
620 SEYBOLD BUILDING
MIAMI, FLORIDA 33132

PHONES: 374-2715 - 379-7947

June 24, 1974

Re: The Magnavox Company et al.

vs.

Bally Manufacturing et al.

Dear Sir:

Please be advised that as of the above date of mailing of the enclosed exhibit, the document to be provided by Mr. Richards and thereupon marked as "Plaintiff's Exhibit #17 for Identification," has not been supplied to this office for attachment.

Yours very truly,

JACK W. MALLICOAT

By Sylvia Tompkins
Sylvia Tompkins

cc: Theodore W. Anderson, Esq.
George R. Richards, Esq.
A. Sidney Katz, Esq.
U.S. District Court
Northern District of Illinois
Eastern Division